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LAWYER ASSISTANCE PROGRAMS: BRIDGING THE GAP

*Dr. Sarah Cearley**

I. HISTORY AND INTRODUCTION

The establishment of a lawyer assistance program was first proposed in Arkansas during the mid-1990s when recovering alcoholics, and leaders in the local and state bars, created a momentum throughout the legal community.¹ Though the petition languished before the Arkansas Supreme Court during those years, following the shocking suicide of a prominent judge, and the estate looting of an addict probate lawyer, the court decided it was time to adopt a program that might prevent another lawyer or judge from suffering a similar fate.² And so, in December 1999, Arkansas Judges and Lawyers Assistance Program (JLAP) was created.³

Since 1960, Lawyer Assistance Programs (LAPs) have formed in 48 states and the District of Columbia.⁴ All LAPs share a common mission: to help suffering lawyers, judges, their family members and law students through difficult times and to support them in developing new tools to achieve and maintain healthier physical and mental lifestyles. LAPs employ counseling, monitoring and close support to protect the aforementioned parties, as well as clients, litigants and the community at large from problems that arise from dysfunction.

Most LAPs see clients for similar issues: substance abuse and addiction, mental health disorders and illness, marriage and family problems, financial and career issues, and issues that arise with aging. In many LAP offices, mental health consults outnumber substance abuse as the presenting

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1. See Sarah Cearley, *ARJLAP History*, YOUTUBE (Jan. 11, 2013), <http://www.youtube.com/watch?v=v2RwIgx515s#t=14>.

2. In re Judges & Lawyers Assistance Program, 2010 Ark. 443 at *2 (per curiam).

3. Sarah Cearley, *Message From the Executive Director*, in 2012–2013 ANNUAL REPORT, 12, 12 (Ark. Judges & Lawyers Assistance Program), available at http://www.arjlap.org/sites/default/files/JLAP%20Annual%20Report_sm.pdf.

4. See AM. BAR ASS'N COMM'N ON LAWYER ASSISTANCE PROGRAMS, 2012 COMPREHENSIVE SURVEY OF LAWYER ASSISTANCE PROGRAMS 2 (2012), available at http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_2012_lap_comprehensivesurvey.authcheckdam.pdf.

problem. The most recent survey of LAPs in the U.S.⁵ revealed that of substance abuse problems seen, 76% involved alcohol, while 9.8% of the abuse problems involved prescription drugs.⁶ Of the clients seeking help for mental health issues, 41% struggled with depression and 23% with anxiety.⁷

II. ARKANSAS JLAP'S MESSAGE

Based on our experience in Arkansas JLAP, however, even free, accessible and confidential assistance is sometimes met with resistance. One of our biggest hurdles is a lack of trust that comes from generations of lawyers taught that their job is not only to solve their clients' problems, but also to singlehandedly solve their own problems; that for a lawyer to let anyone know he has a problem is to lose his professional self and career; that for a judge to show a chink in her armor is to lose her reputation and her next race. While JLAP operates under confidentiality rules promulgated by the Arkansas Supreme Court, fear of disclosure is palpable and does not easily yield to our persuasive efforts.

Through public and professional education, social events and awards dinners, weekend outdoor family retreats, articles, messages on our website, and more, JLAP is penetrating the social fabric of the legal profession, speaking always of the connectedness of us all—lawyers helping lawyers. We want to shatter the myth that asking for help is a sign of weakness. We want to silence the notion that law students, lawyers, and judges can use their intellectual and analytical skills to solve their personal problems just as they use them to be at the top of their class, or to win and decide cases. Buddy Stockwell, the Louisiana LAP director, said it well, "You can't 'lawyer' your way out of alcoholism or chemical brain diseases. As such, the self-reliance that previously served a lawyer or judge so well can be their total undoing, because it blocks the path to help."⁸

A. High Stress Environments Often Lead to Referrals

Solo practitioners represent the largest segment of lawyers who contact or are referred to LAPs for impairment issues—45% in 2012.⁹ Partly because of their isolation, this figure comes as no surprise considering solo

5. *See id.* at 18.

6. *See id.*

7. *See id.* at 20.

8. J.E. (Buddy) Stockwell, *Lawyers Assistance*, 59 LA B.J. 350, 350 (Feb./Mar. 2012), available at <http://files.lsba.org/documents/publications/BarJournal/Journal-February2012.pdf>.

9. *See* AM. BAR ASS'N COMM'N ON LAWYER ASSISTANCE PROGRAMS, *supra* note 4, at 22.

practitioners are the most vulnerable in the legal community. They may operate without personnel or technology resources and rarely interact with other lawyers—usually only regarding their cases. Because of financial concerns, solo practitioners may feel compelled to continue in practice even when serious impairments develop. This environment greatly reduces the opportunity for outsiders to take note and intervene. Although results vary widely, every referral that averts a crisis is an important success—protecting the client while helping the lawyer.

Twenty-one percent of LAP lawyer referrals concern lawyers working in law firms.¹⁰ According to a Forbes online article, “associate attorney” is the number one unhappiest job in America.¹¹ The article cited a CareerBliss.com survey of 65,000 employees in the United States and reported that associate attorneys cited billable hours and the long road to partnership as the key difficulties that make them so unhappy.¹² The Type A law student who ranks at the top of her class and moves seamlessly into a large or medium firm will most likely continue a life of high-performance stress and anxiety. The stressors are both external and internal as expectations rise at both work and home and maintaining the pace without help becomes harder and harder. Whether help comes from positive support or negative coping skills is key for her well being.

B. Law Students Also Must Learn to Cope with Stress

Since Arkansas’ Law Student Program began in 2011, the law students in our state’s two law schools have comprised 40% of our client load.¹³ Most of the students we see refer themselves for help with stress and anxiety. When they find they can return to their classes and studies, families and friends with a new outlook, many of these students are not shy about suggesting to their peers that they give it a try. Hon. Robert L. Childers, a judge on the Tennessee Circuit Court and the longtime Chair of the ABA Commission on Lawyer Assistance Programs (CoLAP), tells audiences that lawyer substance abuse and mental illness often begin in law school.¹⁴ From day

10. *See id.*

11. *See* Jacquelyn Smith, *The Happiest and Unhappiest Jobs in America*, FORBES (Mar. 22, 2013, 2:55 PM), <http://www.forbes.com/sites/jacquelynsmith/2013/03/22/the-happiest-and-unhappiest-jobs-in-america/>.

12. *See* Smith, *supra* note 12.

13. *See* ARK. JLAP, *Two Years in Review*, in 2012–2013 ANNUAL REPORT 8, 8 (Ark. Judges & Lawyers Assistance Program), *available at* http://www.arjlap.org/sites/default/files/JLAP%20Annual%20Report_sm.pdf.

14. *See* Meghan Vivo, *Highlights* (American Bar Ass’n Comm’n on Lawyer Assistance Programs, Chicago, IL.), Winter 2012, at 4, *available at* http://www.americanbar.org/content/dam/aba/publishing/highlights_newsletter/lc_colap_highlights_wi12.authcheckdam.pdf.

one, the stresses of competition for grades and class rank, emphasis on analytical problem solving, and the personalities that incline toward perfectionism and cognitive intelligence set the stage for the quick relaxing effects of highly accessible alcohol and drugs.¹⁵ In a seminal study, researchers found that while law students enter law school with the same 10% level of depression as the general public, by the end of their third year 40% of students have experienced this debilitating mental disorder.¹⁶

The hope of all LAPs is, of course, that the old patterns affecting the onset of law student problems can be turned around with education, changes in law school culture, and in attitudes about mental illness and substance abuse. LAP staff and volunteers around the country are tackling these tough realities through programs designed to provide healthy tools and skills for law students to approach their stresses. As the self-referred students in Arkansas JLAP attest, a new day will dawn when these students become the lawyers and judges of tomorrow with a new perspective on seeking help for substance abuse and mental illness.

III. TOWERING ISSUES FOR LAW STUDENTS AND LAWYERS

[A] significant percentage of practicing lawyers are experiencing a variety of significant psychological distress symptoms well beyond that expected of the general population. These symptoms are directly traceable to law study and practice. They are not exhibited when the lawyers enter law school, but emerge shortly thereafter and remain, without significant abatement, well after graduation from law school . . . [T]he environment surrounding lawyers is conducive to the creation of substantial psychological distress.¹⁷

According to Self-Determination Theory, a shift from “intrinsic motivations” (personal interests and convictions) toward more extrinsic motivators (impressing others, gaining status, and affluence) thwarts persistence, enjoyment, creativity, and integration in the long run.¹⁸ The emphasis on grades and class rank in law schools, as well as on billable hours and adversarial behavior in law firms, teaches that the profession of law values extrinsic motivators. While students and lawyers may make high grades and high

15. *Id.*

16. See G. Andrew H. Benjamin et al., *The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers*, 11 AM. B. FOUND. RES. J. 225, 225–52 (1986).

17. Connie J.A. et al., *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 J.L. & HEALTH 1, 2 (1995).

18. See Kennon M. Sheldon & Lawrence S. Krieger, *Does Legal Education have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being*, 22 BEHAV. SCI. & L. 261, 263 (2004).

salaries, if they have come to believe that those are the main reasons for their work, their well-being suffers over time. This belief can lead to the problems of stress, anxiety, and depression that LAP counselors see.

A. Substance Abuse and Addiction

Addiction is not a moral weakness. It is a brain disease with significant behavioral consequences. “Over time, continued use of [addictive substances and behaviors] can physically alter the structure and function of the brain, dramatically affect judgment and behavior, and drive a compulsion to obtain[,] . . . use[, and act on them,] even in the face of mounting negative consequences.”¹⁹ Not all those who have problems with drinking are addicted, but they can experience similar negative consequences and can take similar steps to get better. The National Institute on Alcohol and Alcohol Abuse estimates that 10.5% of the U.S. population is alcoholic or chemically dependent.²⁰ “In the legal profession, the abuse may be as high as 20%.”²¹ “The National Bar Council believes it can prove that at least fifty to sixty percent of all client complaints are directly related to alcohol or substance abuse. In fact, they suspect that the true estimate approaches eighty percent.”²²

One of the greatest rewards of working in a LAP is seeing a client who has gone to the bottom of his negative consequences and asked for help. One such lawyer wrote his story for the Louisiana Law Journal, reporting that after a five-day binge, missing an important deadline, and deciding that law practice was over for him, a friend put him in touch with the Louisiana LAP.²³ He ends the article with, “[s]ince that first day I reached out to the LAP, many miracles have taken place. My family is proud of me and I now enjoy being there for them in a loving, healthy, sober manner. I am also a very productive attorney who serves clients well. My future is bright again. I will always remain a supporter and friend of the LAP. Thank you LAP for helping save my life.”²⁴

19. See NAT’L CTR. ON ADDICTION & SUBSTANCE ABUSE AT COLUMBIA UNIV., ADDICTION MEDICINE: CLOSING THE GAP BETWEEN SCIENCE AND PRACTICE 6 (2012) (citations omitted).

20. U.S. DEPT. OF HEALTH & HUMAN SERVICES, NAT’L INSTITUTES OF HEALTH, NAT’L INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM, ALCOHOL ALERT No. 76, 1 (July 1998), available at <http://pubs.niaaa.nih.gov/publications/AA76/AA76.pdf>.

21. See S.C. BAR HELP TASK FORCE, THE LAWYERS’ EPIDEMIC: DEPRESSION, SUICIDE AND SUBSTANCE ABUSE 11 (2008).

22. Judith L. Maute, *Balanced Lives in a Stressful Profession: An Impossible Dream*, 21 CAP. U. L. REV. 797, 813 (1992).

23. J.E. (Buddy) Stockwell, *Lawyers Assistance: The Miracles of Recovery*, 61 LA. B.J. 38, 38 (June/July, 2013).

24. *Id.* (alteration in original).

B. Mental Illness

Overcoming the stigma of mental illness is a major barrier not confined to the legal profession. “It’s not like having a chronic illness or disease,” said Link Christin, Advisor to Hazelden’s Legal Professionals Program.²⁵ Christin, a civil trial lawyer for more than 25 years, said, “[i]n a broad sense, law firms need to recognize it, and try to remove the stigma, so people reach out for help. The biggest threat is isolation.”²⁶ This country still has a culture in which if you had cancer, you would say so, but we are discouraged from such openness with mental health issues.²⁷

A Johns Hopkins University study found that among over 100 occupations studied, lawyers were 3.6 times more likely to suffer from clinical depression than any other profession.²⁸ Perhaps it’s no wonder. Lawyers’ work invites people to bring in their problems, and not the easy or simple ones. Lawyers take on their clients’ worst problems, often dealing with their most important and emotional issues: freedom, health, financial security, or family relationships.²⁹

Daniel T. Lukasik was one of those lawyers who suffered from severe depression, found a way through it, and has made it a priority to share his experience with other lawyers through his website www.lawyerswithdepression.com. Mr. Lukasik speaks not only of his depression, but also of his recovery. He finally reached out for professional medical help and began a regimen of medication and talk therapy. On a recent blog, Mr. Lukasik wrote the following:

I needed to start thinking about how to live a better life and treat myself differently. My psychologist once called depression ‘crooked thinking.’ I tended to catastrophize everything by more often seeing problems as unsolvable and conflicts a matter of life and death. When I lost a case, I would take it personally, I was a bad lawyer, and even a worse, a person who didn’t measure up. A loser. I didn’t realize that I was punishing myself. I didn’t realize that this was a choice and I could stop. I began to feel like I didn’t have to go on this way anymore. I came to believe that

25. Paula Tsurutani, *Mental Health in Law Firms: The Elephant in the Room*, available at http://pubs.royle.com/article/Mental_Health_in_Law_Firms/1523036/177570/article.html.

26. *Id.*

27. *Id.*

28. William W. Eaton et al., *Occupations and the Prevalence of Major Depressive Disorder*, 32 J. OCCUPATIONAL MED. 1079, 1079–87. (Nov. 1990).

29. Jim Calloway, *The Stress-Free Law Practice*, WIS. L.J. (Mar. 28, 2013, 1:11 PM), <http://wislawjournal.com/2013/03/28/the-stress-free-law-practice/>.

problems could be solved and that outcomes weren't always in my control. *I began to hope.*³⁰

According to a survey conducted on 801 lawyers in Washington, 19% of lawyers suffer from statistically significant elevated levels of depression.³¹ For the lawyer who is among that group, it is not easy to meet deadlines, return calls to clients, or to face the growing pile of papers on her desk. She may not have the energy to get out of bed in the morning, much less go to the office to the work that used to give her satisfaction. Inevitably, LAPs often see these individuals once this process has begun. On the other hand, lawyers like Dan Lukasik are sending the message that you don't have to wait until catastrophe happens. Confidential help is available in almost every state in the nation through LAPs and other mental health resources.

C. Suicide

Substance abusers are ten times more likely to die by suicide than the general population.³² As well, a severe consequence of depression is suicide, which ranks in the United States as the 13th, and in Arkansas as the 14th, leading cause of premature death.³³ According to the website, World Life Expectancy, almost 12.6% of deaths in Northwest Arkansas are due to suicide.³⁴ Suicide currently ranks as one of the leading causes of premature death in the legal profession.³⁵ Surveys of lawyers in Washington and Arizona show that most lawyers suffering from depression also have suicidal thoughts.³⁶ Another study found that lawyers have a much greater risk of acting on their suicidal thoughts and dying in doing so.³⁷

A recent CNN story reported on "prominent lawyers . . . turning up dead."³⁸ In Oklahoma, a lawyer committed suicide once every month for a

30. Daniel Lukasik, *Lawyers with Depression: Crawling Towards Hope* (Jan. 19, 2014), <http://www.lawyerswithdepression.com/articles/lawyers-depression-crawling-towards-hope/>.

31. G.A.H. Benjamin, E.J. Darling & B.D. Sales, *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse among United States Lawyers*, 13 INT'L J.L. & PSYCHIATRY 233 (1990).

32. See S.C. BAR HELP TASK FORCE, *THE LAWYERS' EPIDEMIC: DEPRESSION, SUICIDE AND SUBSTANCE ABUSE* 3 (2008).

33. ARKANSAS LIFE EXPECTANCY, <http://www.worldlifeexpectancy.com/usa/arkansas-suicide>. (last visited June 15, 2014).

34. *Id.*

35. Richard G. Uday, *That Frayed Rope*, UTAH ST. B. J. 8, (Aug./Sept. 2003).

36. Joan E. Mounteer, *Depression among Lawyers*, 33 COLO. LAW. 35, 36 (Jan. 2004).

37. See S.C. BAR HELP TASK FORCE, *THE LAWYERS' EPIDEMIC: DEPRESSION, SUICIDE AND SUBSTANCE ABUSE* 3 (2008).

38. Rosa Flores & Rose Marie Arce, *Why are Lawyers Killing Themselves*, CNN U.S. (Jan. 20, 2014, 2:42 PM), http://www.cnn.com/2014/01/19/us/lawyer-suicides/index.html?hpt=hp_t2.

period around 2004.³⁹ South Carolina lost six lawyers within 18 months before July 2008.⁴⁰ Kentucky has seen 15 known lawyer suicides since 2010.⁴¹ The stresses of their profession are a common denominator for these successful lawyers' suicides. Their families and colleagues were surprised by their final act of hopelessness found in severe depression. Their silence about the state of their moods kept them isolated.⁴²

The Dave Nee Foundation was established by friends and family of a law student in New York who committed suicide in 2005. The Foundation

believe[s] that a principal reason for the high suicide rate in the United States is a glaring lack of sufficiently candid discussion about, and early treatment of, depression. [They] hope to spread the message that depression and thoughts of harming oneself are common and that treatment for depressed and suicidal thoughts must become socially acceptable.⁴³

True to their mission, the foundation sends speakers around the country to talk to law students at no cost. They inform students and lawyers about spotting the signs and speaking the truth to suffering friends about what they see.⁴⁴

IV. SEEKING POSITIVE CHANGE—THE LAWYER ASSISTANCE PROGRAMS

The facts are clear. Serious problems with substances, addiction and mental health can begin as early in a lawyer's legal life as law school and continue into her career. The solutions are available. Lawyer Assistance Programs, their boards, staff and volunteers are comprised of lawyers, judges, law students, law faculty, mental health professionals, and family members—all people whose passion it is to help their fellows overcome these problems and become or return to being healthy members of their families, their profession, and their communities. All of us who are involved in this effort have seen the turn-around happen. We have seen the student get clean and sober and enter his profession with the tools of AA and the values he prized before his downfall. We have seen the lawyer face suspension for ethical violations take the time to get healthy, and return to his firm with the experience of honesty, openness, and second chances. We have seen the judge step down from the bench, and then, embracing a new stage of life, turn to helping others who suffer. We have watched as the firm stood by the

39. *Id.*

40. *Id.*

41. *Id.*

42. *See id.*

43. DAVE NEE FOUNDATION, <http://www.daveneefoundation.com/our-mission> (last visited June 19, 2014).

44. *Id.*

partner as she faced her demons and returned stronger for it. The problems are not the end of the game—they are often, through the LAPs, the beginning of a new way of living and working in a cherished profession.

End Note: The problems and issues that clients bring to JLAP are more numerous than what can be discussed in this paper. A short list would include bipolar and other mood disorders, personality disorders, trauma, career change and licensure issues, and relationship and family problems. I have limited this discussion to those issues we see most often.

RESOURCES FOR LAWYERS AND LAW STUDENTS

- ABA Commission on Lawyer Assistance Programs (CoLAP) maintains a number of resources on their website (http://www.americanbar.org/groups/lawyer_assistance.html).
- Directory of Lawyer Assistance Programs by state as well as international (Print version for 2012-13 also available).
- National resources, including toll-free numbers for additional sources for information and help on topics, such as mental health, suicide, chemical dependency, self-help, and family support.
- Publications, including such titles as *Facing Mental Illness and Dementia in Law Practice* (audio CD-ROM and video); *Judges Helping Judges*; *A Lawyer's Guide to Healing: Solutions for Addiction and Depression*; *Lawyers, Anger and Anxiety: Dealing with the Stresses of the Legal Profession*.
- Speakers Bureau Directory by state. This listing includes speakers who are available to discuss issues including aging, depression, stress, suicide, discipline and intervention. (Note: This is a voluntary listing; speakers have not been screened).
- CoLAP Café, a monthly newsletter/blog with updates and information about lawyer assistance programs.
- Law Firm Mental Health Toolkit (2012): The Lawyers' Mental Health Task Force of the Cleveland Metropolitan Bar Association produced this 58-page toolkit. It is designed to help law firms recognize the signs of depression and addiction, understand what they can and should do to assist, and understand the legal and ethical principles that apply.
- Dave Nee Foundation works to eliminate the stigma around depression, and prevent suicide, by promoting and encouraging the diagnosis and treatment of depression among adolescents, young adults, and law students. Law Lifeline is an online resource geared to students, and produced by the Jed Foundation and the Dave Nee Foun-

dation. It provides facts on a range of mental health issues, advice on how to stay well, resources at individual schools, and a hotline number for a confidential conversation with a counselor. It also includes guidance on helping friends who may have a mental health issue.

- **Lawyers with Depression:** After lawyer Daniel Lukasik struggled with depression, he searched for a site where he could contribute an article about his experience as a lawyer. When he couldn't find one, he created his own site to help fellow lawyers, students, and judges cope with and heal from depression. The site includes a frequently updated blog, guest articles, suggested books, and a documentary Lukasik produced, *A Terrible Melancholy*.
- **New York State Bar Association eLAP:** This online resource, created by the New York State Bar Association's Lawyer Assistance Program, is filled with information on issues including depression, anxiety disorders, suicide, stress, and general wellness, as well as self-assessment tools, videos, and additional links.
- **A Wellness Guide for Senior Lawyers and their Families, Friends, and Colleagues (2013):** The State Bar of California's Lawyer Assistance Program produced this online guide, which addresses health problems that come with aging, including dementia, cognitive impairment, behavioral issues, how to spot symptoms, and how to respond.
- In Arkansas, you can visit www.arjlap.org to learn more about resources in our state.